

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

COY PHELPS

Petitioner

Case: 05-4003-GAO

MOTION FOR ENLARGEMENT  
OF TIME TO RESPOND TO  
DEFENDANTS MOTION TO  
DISMISS MADE ON JULY 14,  
2005

DAVID WINN, et. al.

Respondent(s)

PETITIONER filed a Civil Rights and Personal Injury Complaint against Bureau of Prisons employees and Public Health Service employees who are under contract with the U. S. Bureau of Prisons.

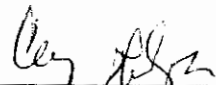
Respondents moved for a MOTION TO DISMISS and in its opening paragraph the Motion states only two defenses under Rule 12 of the Federal Rules of Civil Procedures: Rule 12(b)(1) Lack of Subject Matter Jurisdiction, and Rule 12(b)(6) Failure to State a Claim.

However, embedded in the Motion are TEN (10) other affirmative defenses which include:

- (1) Failure to Exhaust Administrative Remedies(Page 2,3)
- (2) Improper Venue ( Page 2, 6 )
- (3) Barred by " Three Strikes "( Page 2, 7 )
- (4) Lack of Clear and Concise Statement under Rule 8 of the Federal Rules of Civil Procedures( Page 2, 12)
- (5) Respondeat Superior inapplicability (Page 2, 10 )
- (6) Absolute Immunity ( Page 2, 9 )
- (7) Violation of Prison Litigation Reform Act( Page 5 )
- (8) Lack of Legal Jurisdiction( Page 6 )
- (9) Lack of Personal Jurisdiction ( Page 9 )
- (10) Qualified Immunity

Petitioner will need more time to address each of these defenses.

DATE: 7/20/2005

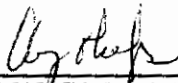
  
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COY PHELPS 78872-011 In Pro Se  
FMC-DEVENS  
P. O. BOX 879  
AYER, MASSACHUSETTS 01432

CERTIFICATE OF SERVICE

I, COY PHELPS, certify under penalty of perjury, pursuant to 28 USC 1746, that I placed a copy of this action into separate correctly addressed envelopes, affixed with sufficient and proper first class U. S. Postage, and deposited the envelope(s) into the prison mail-box, on the date indicated below, to be delivered to:

1. Damian W. Wilmot, AUSA, U. S. Attorneys Office,  
1 Courthouse Way, Boston, Massachusetts 02210

DATE: 7/20/ 2005

  
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